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SUBJECT: PROPOSED COEXISTENCE DECREE COULD EFFECTIVELY BAN
BIOTECH CROPS IN ITALY

REF: A. (A) MILAN 465
1B. (B) MILAN 512
1C. (C) MILAN 512
1D. (D) MILAN 523
1E. (E) ROME 3481

(U) Sensitive but unclassified.

11. (SBU) Summary: Agriculture Minister Alemanno has drafted a decree-law that could effectively ban GM planting in Italy -- almost certainly in 2004 and quite possibly beyond. He plans to present it at an upcoming meeting of the Council of Ministers. If enacted, the decree law would apply criminal sanctions for any use of GM seeds in any Italian area where EU-recognized "DOP" foods are planted. While Alemanno may simultaneously agree to lift the so-called Amato Decree (banning four varieties of EU-approved GM corn), the proposed coexistence decree would put in place an even more restrictive regime. Several GOI ministers dislike Alemanno's anti-biotech crusade, but our discussions to date indicate that few, if any, ministers are willing to actively oppose the decree law, in order not to aggravate growing tensions within the governing coalition. Nevertheless, Ambassador's discussions of U.S. concerns this week at the Office of the Prime Minister and at the MFA offer grounds for optimism that the GOI may not act as precipitously as Alemanno wishes (details reported septel). End Summary.

12. (SBU) Embassy Ag Attache has obtained a copy of a decree law on coexistence, drafted by Minister Gianni Alemanno's agriculture ministry, that was recently circulated to other concerned government ministries and to regional governments. While the language of the draft legal decree is vague, it purports to establish the regulatory framework for the coexistence of transgenic, conventional, and organic cultivation in Italy. In fact, Embassy believes that it would institute a de facto ban on biotech crops, certainly in 2004 and probably beyond. If adopted by the Council of Ministers, these coexistence rules will take effect immediately and be subject to Parliamentary ratification within sixty days. According to Alemanno, beginning in 2004, any Italian region in which products registered under the EU's scheme of geographical indications and denominations of origin ("DOP") are produced will be declared GM-free. Beginning in 2005, Italy's 20 regions will be given the discretion to make this decision. The law includes sanctions and criminal penalties, including prison terms. MinAg officials have told us that this decree law will be proposed to GOI's Council of Ministers as early as November 14.

Draft Alemanno Decree-Law

13. (SBU) Highlights of the draft decree law are:

-- Adventitious presence (AP) of biotech material is limited in conventional seeds to "below the detectable level" and prohibited (zero tolerance) in organic seeds.

-- Agricultural production must give consumers a choice between transgenic and non-transgenic products. A separate production line must keep transgenic from organic and conventional lines.

-- For the 2004 planting season, no biotech seeds may be planted in Italian regions now producing products protected under the EU "DOP" regime. Beginning in 2005, each region will determine which areas may be declared GM-free and what distances will be required between non-biotech and biotech plots. Each region will also be allowed to designate GM-free areas for "structural reasons incompatible with co-existence."

-- The onus of keeping biotech separate from conventional and organic production is placed on the grower of biotech crops. Those growers who fail to keep biotech separate can be fined 2,600 to 25,900 euros and may be imprisoned.

-- The decree law establishes a Ministry of Agriculture institution for research on the environmental impact of biotech, charged with monitoring transgenic production.

14. (SBU) After obtaining leaked drafts of the draft decree

law, Agatt and Senior Agricultural Specialist met November 5 with the Agricultural Minister's Diplomatic Advisor Raffaele de Lutio and with MinAg Chief of Food Quality Giuseppe Ambrosio to confirm the text of the draft coexistence decree law and to clarify the draft's many ambiguities. Ambrosio confirmed the text of the draft decree and that it would soon be presented to the Council of Ministers. A 2004 seed circular would subsequently give more specifics on adventitious presence of GM in conventional seed shipments. Ambrosio argued that the decree was not so bad as it appeared -- it did mention the concepts of GM planting and coexistence. Perhaps one day conditions would permit the actual planting of GM seeds. That time, however, has not yet arrived, according to Ambrosio. Asked to explain whether the draft decree's "separate production line" applies to cultivation in Italy or also for imports of soybeans and meal for feed, Ambrosio denied that this would apply to imported feed ingredients. He stated that it was valid only for crops grown in Italy. (Note: The "separate production line" appears to add significant burdens to producers of EU-allowed biotech crops, exceeding the requirements of the EU's agreed Traceability and Labeling and Food and Feed laws.)

Adventitious Presence - Zero Tolerance

15. (SBU) The draft coexistence decree-law proscribes adventitious presence (AP) of biotech in seeds. The absence of an EU-agreed Seed Directive gives Alemanno what he believes to be the freedom to continue to stipulate zero tolerance. Alemanno created havoc in the summer of 2003 with zealous enforcement of his second annual ruling on what levels of AP are admissible in seeds for planting, reported extensively in reflets A, B, C, D, E. Alemanno's seed plans, as set forth in the new coexistence law, will feature more of the same, although he will also give more specifics in a 2004 Seed Circular. MinAg officials point to improved prospects for U.S. seeds exports because the Circular's seed protocol has been tweaked by widening the sample size to 3,000 seeds. This may slightly improve the chances for U.S. seed to comply with this strict threshold.

Good-bye Amato Decree, Hello (Non)Coexistence

16. (SBU) Ambrosio confirmed that, in conjunction with the introduction of the coexistence decree-law, Minister Alemanno will move to repeal the Amato Decree, which bans four EU-approved biotech corn varieties. Repeal of the Amato Decree has been promised privately on numerous occasions, but on November 5 Minister Alemanno was quoted in the press as claiming that the Amato Decree is being repealed principally because of pressure from the EU. (Note: Since August 2000, the Amato Decree, although challenged in the European Court of Justice, has been upheld. This was based on reasoning that the Precautionary Principle allowed Italy to put the ban in place "temporarily" because the GOI had doubts about the EU review of health and environmental effects of biotech corn. Italy was thus allowed to prohibit biotech corn based on doubts alone, unsubstantiated by any empirical evidence. This impeded imports of corn for feed (corn gluten feed ingredients) and corn seeds for planting. End Note.)

Reaction: Predictably Mixed

17. (SBU) There has been mixed initial reaction among Italy's agricultural interests to the proposed decree. One of the three farmers, organizations raised objections, one expressed reservations about the law's vagueness, and one endorsed the draft law. The organization Confederazione Italiana Agricoltori, publicly stated reservations are cautious, in line with the organization's past reluctance to publicly declare itself in favor of biotech for fear of the appearance of caving in to multinational corporate pressure. News reports tallied twelve of Italy's twenty regional agriculture advisors as favoring the draft law. Reaction among other groups follows predictable lines with greens and environmental groups applauding the measures.

Embassy Analysis: Implications of the Decree

18. (SBU) There are no regions in Italy without products

registered under the EU's scheme of geographical indications and denominations of origin. EU-protected products in Italy number over 125, and none of them are candidates for gene

flow from any biotech cultivation that could be contemplated by Italian farmers in the near future. If adopted, this law could potentially keep biotech out of Italy for the foreseeable future, just as the EU is getting close to putting in place provisions to enable the biotech approvals process to get started again. Unlike the Austrian bid to justify GM-free zones, Alemanno's coexistence rules appeal to local and regional beliefs that traditional food products are a crucial patrimony. By giving regions the authority to decide what areas are to be biotech-free from 2005 and into the future, he is also deflecting troublesome decisions from his Ministry and pushing it into the regional agricultural leaderships, hands. Moreover, U.S. conventional seed trade with Italy will continue to be thwarted by arbitrary AP levels. Assobiotech, the umbrella organization representing biotech industries in Italy, has spearheaded a Brussels initiative to inform EU officials of aspects of the proposal that run contrary to EU law. If the Italian coexistence law is allowed to stand unchallenged by the EU, Italy will have positioned itself even further as the most biotech-unfriendly Member State in the EU.

19. (SBU) Existing procedures for registering a new seed variety in Italy are rigorous and should satisfy Italian regulatory concerns. The coexistence law ignores existing Italian seed registry rules, which already require that any new seed variety undergo two years of field testing in Italian soil and a review by a board appointed by the Ministry of Agriculture. Banning biotech based on "contamination" of typical products ignores the fact that the Ministry of Agriculture controls these through field testing.

110. (SBU) The GOI's Council of Ministers can adopt or reject Alemanno's coexistence law. In Italy, decree-laws circumvent lengthy legislative procedures and are intended as a mechanism to deal with emergencies. Senator Ronconi, Chairman of the GOI Senate Agriculture Committee, has stated publicly that issuing this rule as a law decree is unwarranted. A senior Environment Ministry official told emboff Nov. 7 that the decree is scientifically unjustified and probably unconstitutional, but he predicted that no minister would oppose Alemanno in the Council of Ministers. His point was that, while Government cohesion faces serious challenges on other, "more crucial issues", no minister will choose to pick a fight over this decree.

Ambassador's Interventions

111. (SBU) Given the potential seriousness of this decree-law, before departing for Washington Ambassador Sembler raised the matter this week in discussions with the Prime Ministry and Foreign Ministry. These discussions, offer grounds for optimism that the Italian cabinet will not act precipitously to enact the Alemanno decree-law. Details to follow septel.
SKODON

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